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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,577	10/31/2003	Robert Hale Grant	112-0348US/233-605-USP	1563
48929 7590 07/14/2010 HENSLEY KIM & HOLZER, LLC 1660 LINCOLN STREET SUITE 3000 DENVER, CO 80264				
EXAMINER				
FORD, GRANT M				
ART UNIT		PAPER NUMBER		
2442				
NOTIFICATION DATE		DELIVERY MODE		
07/14/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/699,577	Applicant(s) GRANT ET AL.
Examiner GRANT FORD	Art Unit 2442

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-5, 9, 11-14, 18, 23-25 and 29-35.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Philip C Lee/
Acting SPE of Art Unit 2442

Continuation of 11, does NOT place the application in condition for allowance because: Amendments to independent claims 2, 9, 34 and 35 require further search and consideration and fail to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. With respect to non-amended independent claims 11 and 18, Applicant argued in substance that the prior art of Alonso fails to teach determining that the at least one service is implemented in a second network, and ceasing implementation said at least one service in favor of allowing the second network to provide the at least one service. Applicant argued that the prior art of Alonso teaches re-routing data from one switching fabric to a second switching fabric in the event of receiving a failure of a particular element in the first switching fabric, but that re-routing of data away from a first switching fabric is not the same as either implementing a least one service on behalf of a second network or ceasing the implementing of said at least one service in favor of allowing the second network to provide the at least one service. The examiner respectfully disagrees. Alonso teaches the use of at least one gateway (see adjunct processor 205 or alternatively the combination of adjunct processors 415 and 420) that determines when at least one service is implemented by the second network (e.g., Para. 0019 teaches determining that a second switching fabric is capable of performing a service for which a first switching fabric is currently providing the service, Para. 0043-0044 teach tracking changes, additions, and deletions of elements and operations across multiple switching fabrics). Further, the prior art of Alonso teaches ceasing the implementation of the at least one service in favor of allowing the second network to provide the at least one service (e.g., Para. 0019 teaches receiving a failure notification and changing implementation of the service to at least a second switching fabric for operation, Para. 0044 additionally teaches real-time switching fabric redirection based on switching fabric utilization - note also that the gateway "ceases" the implementation of the at least one service in the first switching fabric by virtue of its redirection of the service to the second switching fabric). Applicant argued that the prior art of Alonso teaches away from ceasing implementation of said at least one service in favor of allowing the second network to provide the at least one service because Alonso teaches that the IFSL provides the service functions at the system level, irrespective of addition of new elements to the fabrics. The examiner respectfully disagrees. Alonso teaches the IFSL data being operated by the adjunct processor (e.g., gateway) at Para. 0058 and Fig. 5. Para. 0043 of Alonso additionally teaches that the adjunct processor is the entity which receives, maintains, and operates upon the IFSL management data.

With respect to claims 9 and 18, Applicant argued that the security system prior art of Cho is implemented in a sender device and a destination device and is not implemented within a network. The examiner respectfully disagrees. The prior art of Cho clearly shows that the security processing module is located at the iSCSI gateway module at Fig. 3 (see also Fig. 1 and Section III.A). As the security module interconnects GbE and SAN/FC fabrics, it is clearly implemented on behalf a network. For at least the reasons outlined above, Applicant's arguments are not found to be persuasive.